

AARON D. FORD
Attorney General
VICTORIA C. COREY (Bar No. 16364)
Deputy Attorney General
State of Nevada
Office of the Attorney General
1 State of Nevada Way, Ste. 100
Las Vegas, Nevada, 89119
(702) 486-9245 (phone)
(702) 486-3768 (fax)
Email: vcorey@ag.nv.gov

*Attorneys for Defendants,
William Gittere and Calvin Johnson*

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

ROBERT MCGUIRE,

Plaintiff,

v.

NEVADA DEPARTMENT OF
CORRECTIONS, *et al.*,

Defendant.

Case No. 3:23-cv-00165-ART-CLB

**ORDER GRANTING DEFENDANTS'
MOTION FOR EXTENSION OF TIME
TO RESPOND TO PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT
[FIRST REQUEST]**

Defendants, William Gittere and Calvin Johnson, by and through counsel, Aaron D. Ford, Nevada Attorney General, and Victoria C. Corey, Deputy Attorney General, hereby move this Court for an extension of time to respond to Plaintiff's motion for summary judgment and related filings [ECF Nos. 31-34]. This is Defendants' first request for an extension of the subject deadline.

MEMORANDUM OF POINTS AND AUTHORITIES

I. FACTUAL ANALYSIS

This is a *pro se* prisoner 42 U.S.C. § 1983 civil rights claim brought by offender, Robert McGuire (McGuire). This Court entered a scheduling order with a discovery

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1 deadline of August 31, 2024¹ and a dispositive motion deadline of September 30, 2024.
2 ECF No. 20.

3 McGuire filed his original motion for summary judgment on March 19, 2024, just
4 fifteen days after the opening of discovery. ECF No. 24. This motion was denied as
5 premature the same day. ECF No. 25.

6 On August 7, 2024, McGuire re-filed his motion for summary judgment, along with
7 three (3) supplements. ECF Nos. 31-34. As such, Defendants' response to McGuire's
8 motions are due on August 28, 2024. Discovery does not officially close until August 31,
9 2024. ECF No. 20 at 6:22-23. Defendants request an extension to respond to McGuire's
10 motions from August 28, 2024, to September 13, 2024, and contend that good cause exists
11 for such an extension.

12 **II. ARGUMENT**

13 To demonstrate good cause, the parties must show "that, even in the exercise of due
14 diligence, [the parties were] unable to meet the timetable set forth in the order." *Cruz v.*
15 *City of Anaheim*, CV1003997MMM/JEMX, 2011 WL 13214312, at *2 (C.D. Cal. Dec. 19,
16 2011) (citing *Zivkovic v. Southern California Edison Co.*, 302 F.3d 1080, 1087 (9th Cir.
17 2002); *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992)). Prejudice
18 to the opposing party is a factor in determining good cause, though lack of prejudice is "not
19 a prerequisite." *Id.*

20 Defendants request additional time to file their response to McGuire's motions. As
21 discovery in this matter does not end until after Defendants' deadline to file a response to
22 McGuire's motions, Defendants assert that it would be judicially efficient to respond to
23 McGuire's motions after the discovery deadline has passed. Furthermore, undersigned
24 counsel will be out of office from August 28, 2024 to September 11, 2024 and will be
25 undergoing surgery during this time.

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28 ¹ As this is a Saturday, Defendants contend that the discovery deadline is actually
September 3, 2024, as September 2, 2024 is a holiday.

1 **III. CONCLUSION**

2 Defendants respectfully request this Court extend the deadline for their response
3 to McGuire's motions. Defendants assert the requisite good cause is present to warrant an
4 extension of time. As such, the Defendants request additional time, up until **September**
5 **30, 2024**, to file their response to McGuire's motions.

6 DATED this 26th day of August 2024.

7 AARON D. FORD
8 Attorney General

9 By: /s/ Victoria C. Corey
10 VICTORIA C. COREY, Bar No. 16364
11 Deputy Attorney General
12 *Attorneys for Defendants*

13 **ORDER**

14 **IT IS SO ORDERED.**

15 **Dated:** August 26, 2024

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17 UNITED STATES MAGISTRATE JUDGE
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